S.B.Civil Cntempt Petition No.139/06
Hakam Ali & ors. vs. ParmeshChander &ors.

Date of Order : 01.5.2007

HON'BLE MR. PRAKASH TATIA,J.

Mr. N.L. Joshi for the petitioners.
Mr. N.M. Lodha for the respondents.

Heard learned counsel for the parties.

This Court directed the respondents to take a decision on the claim of the petitioner within a period of three months from the date of order. According to the learned counsel for the petitioners, the order was not complied with in time and after inordinate delay, in fact when the matter was once decided in favour of the petitioners,after considering petitioners' land limit in accordance with the ceiling law, the concerned authority, aggrieved because of filing of the contempt petition, reviewed the order and took a decision against the petitioners. The petitioners, therefore, preferred appeal before the concerned authority to challenge that order and the appellate authority set aside the said order and remanded the matter back.

The learned counsel for the petitioners submits that firstly the authorities have not decided the claim of the petitioner within time and not only that but because of vengeance, the contemners

decided against the petitioners.

Since the order has been passed by the concerned authorities and that has been challenged in appropriate form by preferring appeal and that order itself has been set aside by the appellate authority then the matter is subjudice. It is settled law that the decision taken by the authority in pursuance of the order cannot be challenged in the contempt petition and only can be shown that the order is a farce and only an another attempt to lower down the authority of the court and like grounds. In the present case, it is true that the delay was caused in deciding the matter but looking to the fact that the matter has been decided and has been challenged in proper form by preferring appeal and the order is again subjudice, then it is not a fit case for proceeding further in the contempt proceedings.

In view of the above, the contempt petition is dismissed and the notices are discharged. However, it is observed that the concerned authority may decide the matter of the petitioners expeditiously now.

(**PRAKASH TATIA),J.**

mlt.